

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of California Water Service Company (U 60 W) for an Order Authorizing it to Increase Rates for Water Service in its South San Francisco District.

Application 03-10-017  
(Filed October 1, 2003)

Application of California Water Service Company (U 60 W) for an Order Authorizing it to Increase Rates for Water Service in its Stockton District.

Application 03-10-018  
(Filed October 1, 2003)

Application of California Water Service Company (U 60 W) for an Order Authorizing it to Increase Rates for Water Service in its Mid-Peninsula District.

Application 03-10-019  
(Filed October 1, 2003)

Application of California Water Service Company (U 60 W) for an Order Authorizing it to Increase Rates for Water Service in its Salinas District.

Application 03-10-020  
(Filed October 1, 2003)

Application of California Water Service Company (U 60 W) for an Order Authorizing it to Increase Rates for Water Service in its Bakersfield District.

Application 03-10-021  
(Filed October 1, 2003)

Application of California Water Service Company (U 60 W) for an Order Authorizing it to Increase Rates for Water Service in its Salinas District (excluding the service areas of the County Meadows Mutual Water System and the Indian Springs Mutual Water System).

Application 03-10-031  
(Filed October 1, 2003)

**OPINION GRANTING PETITION TO MODIFY DECISION 04-09-038****Summary**

We grant the unopposed petition for modification of Decision (D.) 04-09-038 filed by California Water Service Company (CWS). CWS, in its petition of November 8, 2004, seeks additions to D.04-09-038 to clarify that it is

entitled to interim rate relief for its South San Francisco and Bakersfield districts, as determined by the assigned Administrative Law Judge (ALJ) in a ruling issued on March 2, 2004. We are granting CWS the relief requested that it is entitled to by Pub. Util. Code § 455.2 and for which it timely applied.

**Rule 47**

Rule 47 of the Commission's *Rules of Practice and Procedure* (Rules) governs petitions for modification of a prior Commission decision. As relevant here, Rule 47 requires a petitioner who was a party to the underlying proceeding to file the petition within one year of the effective date of the decision at issue, serve all other parties, and specify what changes in the decision are being sought. Any factual allegations must be supported with specific citations to the record or to matters that may be officially noticed; allegations of new or changed facts must be supported by appropriate declaration. CWS has satisfied all the procedural requirements of Rule 47.

**ALJ Ruling, Public Utilities Code  
Section 455.2, and Interim Rate Relief**

As part of this ratesetting proceeding, CWS filed a motion on February 2, 2004, asking for interim rate relief for its South San Francisco and Bakersfield districts. The Office of Ratepayer Advocates (ORA) did not oppose the motion. On March 2, 2004, the assigned ALJ issued a ruling indicating that CWS was entitled to interim rate relief. The ruling stated that CWS was "entitled to file, by advice letter, a tariff" implementing the interim rates "as of July 1, 2004." (ALJ Ruling at p. 6 (March 2, 2004).)

Pub. Util. Code § 455.2(a) directs the Commission to issue its final decision on a water corporation's general rate case application so that the decision becomes effective on the first day of the first test year. Section 455.2(b) further

instructs that if the Commission's decision is not effective on that date, the water corporation "may file a tariff implementing interim rates that may be increased by an amount equal to the rate of inflation as compared to existing rates." The presiding officer or Commission may set a different effective rate for interim or final rates if the delay in timely completion of the proceeding is due to the actions of the water company. These interim rates are adjusted upward or downward back to the interim rate effective date, consistent with the final rates adopted by the Commission.

In this proceeding, CWS filed its notices and application outside the requirements of the water rate case plan then in effect; and the company offered no explanation why this occurred. Thus, the delay was attributable to the company's action or inaction. Under the circumstances, the company itself requested, and the presiding officer approved a July 1, 2004, effective date for interim rates. Under the then-applicable general rate case plan, the Commission was supposed to issue its decision 249 days after the filing of the applications. The effective date CWS requested for its interim rates was almost a month beyond the 249-day period normally allowed the Commission for completing large Class A water rate cases under the then-applicable general rate case plan.<sup>1</sup>

*See In re Schedule for Processing Rate Case Applications by Water Utilities,*

D.90-08-045, 37 CPUC 2d 175, 189 (1990).<sup>2</sup>

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<sup>1</sup> See D.03-10-072, at p. 7 (Cal Water Service) and D.03-12-007 (San Jose Water) granting similar relief under Section 455.2.

<sup>2</sup> The Commission has now issued a new rate case plan for water utilities in D.04-06-018. That rate case plan specifies how utilities should apply for (and how the Commission will process) requests for interim rate relief pursuant to Section 455.2.

The underlying proceeding was resolved by a comprehensive settlement that we approved on September 23, 2004, in D.04-09-038. The decision, however, omitted an ordering paragraph specifically affirming the March 2, 2004, ALJ Ruling.

### **Additions Sought by CWS**

CWS seeks two additions to D.04-09-038. First, CWS requests the following language be added (indicated by underlining) to the discussion of interim rate relief at page 5:

The Assigned ALJ ruled on March 2, 2004, that this general ratemaking proceeding would not be completed within the time specified by the general rate case plan and that CWS was entitled to interim rate relief. We affirm that ruling.

Second, CWS requests that a new Ordering Paragraph 8 be added as follows:

CWS is authorized to file an advice letter to recover the rate changes approved herein with the effective date of July 1, 2004, as allowed by the March 2, 2004, ALJ Ruling. Such recovery may be in the form of a surcharge or surcredit for twelve months and will be calculated based on recorded sales for the period of July 1, 2004, through September 29, 2004, the effective date of Advice Letters 1683 and 1684.

Advice Letters 1683 and 1684 implemented the rates determined in D.04-09-038.

### **Procedural Background**

Petitioners filed this petition on November 8, 2004. No protests or responses were filed.

**Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested by a water company. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), (3), the otherwise applicable 30-day period for public review and comment is waived.

**Status of Proceeding**

With our adoption of D.04-09-038 on September 23, 2004, this proceeding was closed. Since today's decision fully resolves the CWS' petition for modification, there is no reason for this proceeding to remain open, and it should be closed.

**Assignment of Proceeding**

Susan P. Kennedy is the Assigned Commissioner and John E. Thorson is the assigned ALJ for this proceeding.

**Findings of Fact**

1. CWS filed a motion on February 2, 2004, asking for interim rate relief for its South San Francisco and Bakersfield districts. ORA did not oppose the motion.
2. On March 2, 2004, the assigned ALJ issued a ruling indicating that CWS was entitled to interim rate relief. The ruling stated that CWS was "entitled to file, by advice letter, a tariff" implementing the interim rates "as of July 1, 2004." (ALJ Ruling at p. 6 (March 2, 2004).)
3. The effective date for interim rates was almost a month beyond the 249-day period normally allowed the Commission for completing Class A water rate cases under the then-applicable general rate case plan.
4. We approved a comprehensive settlement in this proceeding in D.04-09-038, adopted on September 23, 2004. The decision, however, omitted an ordering paragraph specifically affirming the March 2, 2004, ALJ Ruling.

5. CWS filed a petition for modification of D.04-09-038 on November 8, 2004. The petition seeks additions to the decision reflecting our explicit approval of rate relief effective as of July 1, 2004.

6. CWS' petition is unopposed.

**Conclusions of Law**

1. The petition meets the procedural requirements of Rule 47.
2. Good cause exists for modifying D.04-09-038 in the matter requested by CWS to grant the rate relief authorized by Pub. Util. Code § 455.2.
3. After modification of D.04-09-038, the proceeding should remain closed.

**O R D E R**

**IT IS ORDERED** that:

1. The November 8, 2004 Petition for Modification of Decision (D.) 04-09-038 is granted.

2. The language on page 5 of D.04-09-038 is modified to read as follows (additions indicated by underlining):

The Assigned ALJ ruled on March 2, 2004, that this general ratemaking proceeding would not be completed within the time specified by the general rate case plan and that CWS was entitled to interim rate relief under Pub. Util. Code § 455.2. We affirm that ruling.

3. A new Ordering Paragraph 8 is added, reading as follows:

CWS is authorized to file an advice letter to recover the rate changes authorized by D.04-09-038 for the period from July 1, 2004, through September 29, 2004. Such recovery may be in the form of a surcharge collected over a twelve month period. The amount of revenue to be recovered will be calculated based on recorded sales for the period of July 1, 2004, through September 29, 2004

4. The petition being unopposed, the otherwise applicable 30-day period for public review and comment is waived pursuant to Pub. Util.

Code § 311(g)(2), (3).

5. This proceeding is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.